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09/839,803	04/20/2001	Adrian Lungu	IM1303 US NA	2560
23906 7590 09/12/2008 E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1122B 4417 LANCASTER PIKE WILMINGTON, DE 19805			EXAMINER WALKE, AMANDA C	
			ART UNIT 1795	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/839,803
Filing Date: April 20, 2001
Appellant(s): LUNGU, ADRIAN

Thomas H. Magee
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/24/2007 appealing from the Office action mailed 4/18/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct. Claims 1, 3-19, 31-33, and 40 are pending and rejected.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

English Language abstract of JP 59-211036

English language translation of JP 59-211036

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-19, 31, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Araki et al (JP 59-211036 in view of its English language abstract and the English language translation- newly submitted) in view of applicant's admission.

Araki et al disclose a photopolymerizable image forming composition comprising a reducing dye, a photoacid generator, a binder, a photopolymerizable monomer, and an initiator. Based on a spot translation by a PTO staff member, it appears that the reference meets the instant claim limitations with the exception of the elastomeric binder, but the reference teaches that any suitable known binder may be employed.

In the background of the instant specification, applicant admits that it is known that the photopolymerizable composition of flexographic plates "generally comprise an elastomeric binder", thus admitting that it is well known in the art for a photopolymerizable composition used in manufacturing a flexographic plate employ an elastomeric binder.

It would have been obvious to one of ordinary skill in the art to prepare the material of Araki et al choosing to employ an elastomeric binder as taught to be conventional by applicant, with reasonable expectation of achieving a material having superior work efficiency.

(10) Response to Argument

Appellant has argued that the Araki et al reference teaches that the material for use in a relief plate, but fails to exemplify its use for relief plates in the examples (see page 6, paragraph

Art Unit: 1795

1 of the translation which specifically discusses relief plates with a transparent polymer base and forming a colored image), and also that the reference does not teach that the plate should have a color contrast between the raised and floor areas. The reference even employs the same dye, crystal violet lactone, and a similar material, therefore, it is the position of the examiner that the finished product would inherently possess a color contrast between the "floor" and the raised areas of polymeric material. The examiner is not persuaded by this argument, because the reference does suggest the material's use for a relief plate, and the fact that it is not exemplified does not teach away from using the material for a relief plate. Also, with respect to the amount of the onium salt compound in relation to the dye, given the amounts of the compound taught to be employed in the material, thus one of ordinary skill in the art would have been reasonably motivated to employ the compounds in any amounts within their claimed ranges, and obtain a material wherein the onium salt compound is employed in a greater amount than the dye. On page 5, paragraph 2 of the reference (translation) the reducing agent (dye) may be present in an amount of 0.01 to 10 parts by weight and the onium salt in an amount of 0.001 to 2 parts by weight. Given the ranges, one of ordinary skill in the art would have been motivated to choose any amount within each range, particularly the endpoints, thus the dye could have been employed in an amount of 0.001 parts by weight and the onium salt in an amount of 2 parts by weight, thus employed in an reactive amount greater than that of the dye.

Given that the material of the reference teaches a relief plate having a flexographic base and an polymerizable layer having an elastomer, dye, and onium salt that may be employed in amounts falling within the scope of the instant claim limitations to form a colored image, the examiner maintains her position.

Art Unit: 1795

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Amanda C. Walke

/Amanda C Walke/

Primary Examiner, Art Unit 1795

Conferees:

Cynthia H. Kelly

Kathryn Gorgos

Handwritten signatures of Cynthia H. Kelly and Kathryn Gorgos. The signature for Cynthia H. Kelly is written above the signature for Kathryn Gorgos.